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DOD PERSONNEL
CLEARANCES

Delays and Inadequate
Documentation Found for
Industry Personnel

Statement of Derek B. Stewart, Director
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Why GAO Did This Study

Individuals working for the private industry are playing a larger role in national security work conducted by Department of Defense (DOD) and other federal agencies. As of May 2006, industry personnel held about 34 percent of DOD-maintained personnel security clearances. The damage that the unauthorized disclosure of classified information can cause to national security necessitates the prompt and careful consideration of who is granted a security clearance. Long-standing delays in determining clearance eligibility and other challenges led GAO to designate the DOD personnel security clearance program as a high-risk area in January 2005 and again in GAO's January 2007 update of the high-risk areas. In February 2005, DOD transferred its security clearance investigations functions to the Office of Personnel Management (OPM) and now obtains almost all of its clearance investigations from OPM. The Office of Management and Budget (OMB) is responsible for effective implementation of policy relating to determinations of eligibility for access to classified information.

This testimony addresses the timeliness of the process and completeness of documentation used to determine eligibility of industry personnel for top secret clearances in January and February 2006. This statement relies primarily on GAO's September 2006 report (GAO-06-1070).

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May 17, 2007

DOD PERSONNEL CLEARANCES

Delays and Inadequate Documentation Found for Industry Personnel

What GAO Found

GAO's analysis of timeliness data showed that industry personnel contracted to work for the federal government waited more than 1 year on average to receive top secret clearances, longer than OMB- and OPM-produced statistics would suggest. GAO's analysis of 2,259 cases in its population showed the process took an average of 446 days for initial clearances and 545 days for clearance updates. While the government plan has a goal for the application-submission phase of the process to take 14 days or less, it took an average of 111 days. In addition, GAO's analyses showed that OPM used an average of 286 days to complete initial investigations for top secret clearances, well in excess of the 180-day goal specified in the plan that OMB and others developed for improving the clearance process. Finally, the average time for adjudication (determination of clearance eligibility) was 39 days, compared to the 30-day requirement that began in December 2006. An inexperienced investigative workforce, not fully using technology, and other causes underlie these delays. Delays may increase costs for contracts and risks to national security. In addition, statistics that OMB and OPM report to Congress on the timeliness of the clearance process do not portray the full length of time it takes many applicants to receive a clearance. GAO found several issues with the statistics, including limited information on reinvestigations for clearance updating and failure to measure the total time it took to complete the various phases of the clearance process. Not fully accounting for all the time used in the process hinders congressional oversight of the efforts to address the delays.

OPM provided incomplete investigative reports to DOD, and DOD personnel who review the reports to determine a person's eligibility to hold a clearance (adjudicators) granted eligibility for industry personnel whose investigative reports contained unresolved issues, such as unexplained affluence and potential foreign influence. In its review of 50 investigative reports for initial clearances, GAO found that that almost all (47 of 50) cases were missing documentation required by federal investigative standards. Moreover, federal standards indicate expansion of investigations may be necessary to resolve issues, but GAO found at least one unresolved issue in 27 of the reports. GAO also found that the DOD adjudicators granted top secret clearance eligibility for all 27 industry personnel whose investigative reports contained unresolved issues without requesting additional information or documenting in the adjudicative report that the information was missing. In its November 2005 assessment of the government plan for improving the clearance process, GAO raised concerns about the limited attention devoted to assessing quality in the clearance process, but the plan has not been revised to address the shortcomings GAO identified. The use of incomplete investigations and adjudications in granting top secret clearance eligibility increases the risk of unauthorized disclosure of classified information. Also, it could negatively affect efforts to promote reciprocity (an agency's acceptance of a clearance issued by another agency) being developed by an interagency working group headed by OMB's Deputy Director.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the Department of Defense's (DOD) personnel security clearance program and problems that continue to negatively affect that program. We have testified on clearance-related issues in three prior hearings that this Subcommittee has held since January 2005 when we first placed DOD's security clearance program on our list of high-risk government programs and operations.¹ To facilitate an understanding of our recent findings on private industry personnel who applied for top secret clearances,² I would like to first provide some information about the clearance process and events that have occurred since we placed DOD's program on our high-risk list.

DOD is responsible for about 2.5 million security clearances issued to servicemembers, DOD civilians, and industry personnel who work on contracts for DOD and 23 other federal agencies. Individuals working for the private industry are playing an increasingly larger role in national security work conducted by DOD and other federal agencies as a result of an increased awareness of threats to our national security stemming from the September 11, 2001, terrorist attacks and increased efforts over the past decade to privatize federal jobs. As of May 2006, industry personnel held about 34 percent of DOD-maintained personnel security clearances.

As with servicemembers and federal workers, industry personnel must obtain security clearances to gain access to classified information, which is categorized into three levels: top secret, secret, and confidential. The level of classification denotes the degree of protection required for

¹ GAO, *DOD Personnel Clearances: New Concerns Slow Processing of Clearances for Industry Personnel*, [GAO-06-748T](#) (Washington, D.C.: May 17, 2006); *DOD Personnel Clearances: Government Plan Addresses Some Long-standing Problems with DOD's Program, But Concerns Remain*, [GAO-06-233T](#) (Washington, D.C.: Nov. 9, 2005); and *DOD Personnel Clearances: Some Progress Has Been Made but Hurdles Remain to Overcome the Challenges That Led to GAO's High-Risk Designation*, [GAO-05-842T](#) (Washington, D.C.: June 28, 2005). Since January 2005, we have provided the Subcommittee with additional information in our answers to sets of questions for the records: GAO, *DOD Personnel Clearances: Questions and Answers for the Record Following the Second in a Series of Hearings on Fixing the Security Clearance Process*, [GAO-06-693R](#) (Washington, D.C.: June 14, 2006), and *Questions for the Record Related to DOD's Personnel Security Clearance Program and the Government Plan for Improving the Clearance Process*, [GAO-06-323R](#) (Washington, D.C.: Jan. 17, 2006).

² GAO, *DOD Personnel Clearances: Additional OMB Actions Are Needed to Improve the Security Clearance Process*, [GAO-06-1070](#) (Washington, D.C.: Sept. 28, 2006).

information and the amount of damage that unauthorized disclosure could reasonably be expected to cause to national defense or foreign relations. For top secret information, the expected damage that unauthorized disclosure could reasonably be expected to cause is “exceptionally grave damage;” for secret information, it is “serious damage;” and for confidential information, it is “damage.”³

DOD’s Office of the Under Secretary of Defense for Intelligence (OUSD(I)) has overall responsibility for DOD clearances. Two offices are responsible for adjudication (eligibility determination to hold a clearance) for industry personnel. The Defense Industrial Security Clearance Office (DISCO) within OUSD(I) is responsible for adjudicating cases that contain only favorable information or minor issues regarding security concerns (e.g., some overseas travel by the individual). The Defense Office of Hearings and Appeals (DOHA) within the Defense Legal Agency is responsible for adjudicating cases that contain major security issues (e.g., an individual’s unexplained affluence or criminal history), which could result in the denial of clearance eligibility.

Long-standing delays in determining clearance eligibility and other clearance challenges led us to designate DOD’s personnel security clearance program as a high-risk area in January 2005 and continue that designation in the updated list of high-risk areas that we published in 2007.⁴ In February 2005, DOD transferred its security clearance investigations functions to the Office of Personnel Management (OPM) and now obtains almost all of its clearance investigations from OPM, which conducts about 90 percent of all federal clearance investigations. Other recent significant events affecting DOD’s clearance program have been the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA)⁵ and the June 2005 issuance of Executive Order No. 13381,⁶ Strengthening Processes Relating to Determining Eligibility for Access to Classified National Security Information. IRTPA included

³ 5 C.F.R. § 1312.4, *Classification of National Security Information* (2006).

⁴ GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.: January 2005), and *High-Risk Series: An Update*, GAO-07-310 (Washington, D.C.: January 2007).

⁵ Pub. L. No. 108-458.

⁶ The White House, Exec. Order No. 13381, (June 27, 2005). On June 29, 2006, the executive order was extended until July 1, 2007.

milestones for reducing the time to complete clearances, general specifications for a database on security clearances, and requirements for reciprocity of clearances (the acceptance of a clearance and access granted by another department, agency, or military service). Executive Order No. 13381 assigned the Office of Management and Budget (OMB) responsibility for the effective implementation of a uniform, efficient, effective, timely, and reciprocal policy related to determinations of personnel eligibility for access to classified information.

In June 2005, OMB's Deputy Director of Management was designated as the OMB official responsible for improving the process by which the government determines eligibility for access to classified national security information. One of OMB's efforts to improve the security clearance process involved taking a lead in preparing a November 2005 strategic plan to improve personnel security clearance processes governmentwide. In its February 2007 annual IRTPA-mandated report to Congress,⁷ OMB noted additional improvements that had been made to the clearance process governmentwide. For example, OMB indicated that it had issued reciprocity standards, OPM had increased its investigative workforce to an estimated 9,367 total staff in efforts to reach an earlier goal of having 8,000 full-time staff, and agencies had dramatically increased the use of OPM's Electronic Questionnaires for Investigations Processing (eQIP) system to reduce the time required to get a clearance by 2 to 3 weeks. The report also identified several challenges associated with accessing records repositories.

In requesting our past work, you have expressed concern about the negative consequences of untimely, inadequate, or inconsistent investigations and adjudications. This testimony summarizes our earlier work that examined those issues and supplements other clearance-related reports that we have issued since originally placing DOD's personnel security clearance program on our high-risk list (see the list of Related GAO Products at the end of this statement). It addresses two questions: (1) How timely are the processes used to determine whether industry personnel are eligible for top secret clearances? and (2) How complete is the documentation of the processes used to determine whether industry personnel are eligible for top secret clearances?

⁷ Office of Management and Budget, *Report of the Security Clearance Oversight Group Consistent with Title III of the Intelligence Reform and Terrorism Prevention Act of 2004* (February 2007).

This statement relies primarily on GAO's September 2006 report.⁸ In conducting our prior work on these two key questions, we reviewed laws, executive orders, policies, and reports related to the timeliness and completeness of security clearance investigations and adjudications for industry personnel as well as servicemembers and civilian government employees. Those sources provided the criteria used for assessing timeliness and documentation completeness, and identified causes for and effects from delayed clearances and incomplete investigative and adjudicative reports. Additional insights about causes of and effects from delayed clearances and incomplete investigative and adjudicative reports were obtained from interviews with and documentary evidence from personnel associated with a variety of government offices: OUSD(I), DISCO, DOHA, other DOD adjudication facilities that make clearance determinations for servicemembers and DOD civilians; DOD's Defense Personnel Security Research Center; the Defense Security Service's Training Academy that offers adjudicator training; and OPM. Nongovernmental organizations supplying information on conditions, causes, and effects included officials representing two of OPM's investigations contractors and technology associations whose member organizations require clearances for their industry personnel. We also reviewed the February 2007 annual IRPTA-mandated report to Congress by the Security Clearance Oversight Group. For the timeliness question, our analyses of conditions included a review of computerized data abstracted from DOD's Joint Personnel Adjudication System (JPAS) and statistical reports on timeliness that OPM produced for DOD. The abstract was for the population of 1,685 industry personnel granted initial top secret clearances and 574 industry personnel granted top secret clearance updates by DISCO during January and February 2006. The clearance investigations for those 2,259 industry personnel were started at various times prior to the adjudications. While we found problems with the accuracy of some of the JPAS data, we determined they were sufficiently reliable for the purposes of our September 2006 report. DOD and OPM also supplied timeliness statistics for other periods, levels of clearances, types of personnel, and agencies to provide us with a broader context with which to interpret the timeliness statistics that we computed from the JPAS database abstract. We addressed the completeness question with a multiple-step process. We (1) randomly selected 50 cases from the previously described population of 1,685 initially cleared industry personnel, (2) obtained paper files of the 50 investigative and adjudicative

⁸ GAO-06-1070.

reports, (3) created a data collection instrument using federal investigative standards and adjudicative guidelines to standardize our data gathering, (4) sought experts' comments to refine our instrument and process, (5) coded data from the paper files, (6) had a second team member independently verify the information that another team member had coded, and (7) computed statistics to indicate the numbers of investigative and adjudicative reports with various types of missing documentation. In addition, two team members attended OPM's basic special agent training course to obtain an understanding of the investigative requirements as promulgated by OPM, and two other members of our team took about 40 hours of online adjudication training. We performed our original work from September 2005 through August 2006 in accordance with generally accepted government auditing standards.

Summary

At the time we issued our report in September 2006, our analysis of timeliness data showed that industry personnel contracted to work for the federal government waited more than 1 year on average to receive top secret security clearances and that timeliness statistics reported to Congress by OMB and OPM do not convey the full magnitude of the delays. Industry personnel granted eligibility for top secret clearance from DISCO from January to February 2006 waited an average of 446 days for their initial clearances and 545 days for their clearance updates. Delays were found in each phase of the clearance process that we examined. First, the application submission phase took an average of 111 days, nearly 100 days more than the government's goal. Inaccurate data that the employee provided in the application, multiple reviews of the application, and manual entry of some application forms are some of the causes for the extended application-submission phase. Second, the investigation phase took an average of 286 days for initial top secret clearances, well in excess of the 180-day goal. In addition, it took 419 days for top secret clearance updates (no goal is given for clearance update investigations). Factors contributing to the slowness of completing the investigation phase include an inexperienced investigative workforce and problems accessing national, state, and local records. Finally, it took DISCO adjudicators an average of 39 days to grant initial clearance eligibility to the industry personnel in our study population, compared to IRTPA's December 2006 requirement that 80 percent of all adjudication cases be completed in 30 days. Regardless of when in the process the delays occur, the outcome is the same—the government may incur additional costs from new industry employees being unable to begin work promptly and increased risks to national security because previously cleared industry employees are likely to continue working with critical information while it is determined

whether they should still be eligible to hold a clearance. Moreover, the statistics that OMB and OPM report to Congress on the timeliness of the clearance process do not portray the full length of time it takes many applicants to receive clearances. We found several issues with the statistics, including limited information on reinvestigations for clearance updating and failure to measure the total time it took to complete the various phases of the clearance process. Statistics that underrepresent the time that it takes for investigations to be completed prevent Congress from having a full understanding of the government's efforts to decrease delays in the clearance process and determining if legislative actions are necessary.

In addition to delays in the clearance process, we found that OPM provided incomplete investigative reports to DISCO adjudicators, which they used to determine top secret clearance eligibility. In our review of 50 initial investigations for top secret clearances randomly sampled from the population used in our timeliness analyses, we found that almost all (47 of 50) of the sampled investigative reports were missing documentation required by federal investigative standards. The missing data were of two general types: (1) the absence of documentation showing that an investigator had gathered all required information and (2) the absence of information to help resolve issues (such as conflicting information on indebtedness) that were raised in other parts of the investigative report. The federal standards indicate that investigations may be expanded as necessary to resolve issues. However, we found a total of 36 unresolved issues in 27 of the investigative reports. The most common unresolved issues pertained to financial consideration, foreign influence, and personal conduct. OPM officials suggested that the need to rapidly increase the size of the investigative workforce and prior quality control procedures that have since been replaced were some of the causes for the delivery of incomplete investigative reports to DISCO. Our review also found that DISCO adjudicators granted top secret eligibility to all 27 industry personnel whose investigative reports contained unresolved issues. In our November 2005 assessment of the government plan for improving the clearance process, we raised concerns about the limited attention devoted to assessing quality in the clearance process, but the plan has not been revised to address the shortcoming we identified.⁹ The use of incomplete investigations and adjudications in the granting of top secret clearance eligibility increases the risk of unauthorized disclosure of classified

⁹ GAO-06-233T.

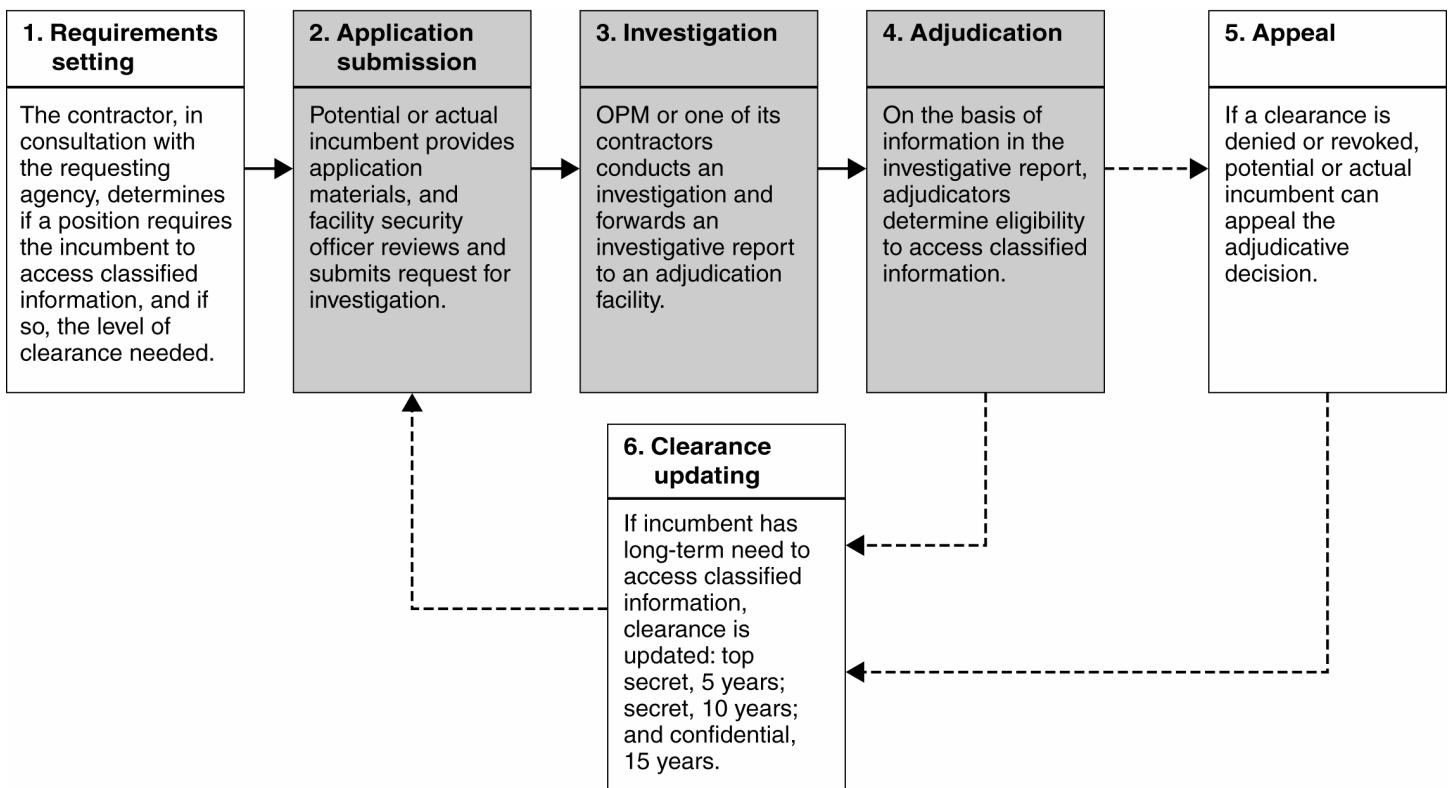
information. Also, it could negatively affect the government's efforts to move toward greater reciprocity. To improve the timeliness and completeness of investigations and adjudications, our report contained several recommendations to OMB.

Background

To ensure the trustworthiness, reliability, and character of personnel in positions with access to classified information, DOD relies on a multiphased personnel security clearance process.¹⁰ Figure 1 shows six phases that could be involved in determining whether to grant an actual or a potential job incumbent a clearance. The three phases shown in gray are those that are most transparent to individuals requesting an initial clearance, and they are the three phases that were the primary focus of the findings in this testimony.

¹⁰ DOD Directive 5200.2, *DOD Personnel Security Program* (Apr. 9, 1999), establishes policy and procedures for granting DOD military, civilian, and industry personnel access to classified information. Additionally, DOD Regulation 5200.2-R, *DOD Personnel Security Program* (January 1987), establishes DOD personnel security policies and procedures; sets forth standards, criteria, and guidelines upon which personnel security determinations shall be based; prescribes the types and scopes of personnel security investigations required; details the evaluation and adverse action procedures by which personnel security determinations shall be made; and assigns overall program management responsibilities. The policies and procedures for granting industry personnel security clearances and adjudicative procedural guidance for appealing cases if an unfavorable clearance decision is reached also are contained in DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Apr. 20, 1999).

Figure 1: Six Phases in the Personnel Security Clearance Process



Source: GAO analysis of DOD-provided information.

Determining Top Secret Clearances for Industry Personnel Averaged More Than a Year, and Government Statistics Did Not Portray All Delays

At the time of our September 2006 report, our independent analysis of timeliness data showed that industry personnel contracted to work for the federal government waited more than 1 year on average to receive top secret security clearances, and government statistics did not portray the full length of time it takes many applicants to obtain clearances. We found delays in all phases of the clearance process that we examined, and government statistics did not account for the full extent of the delays. Delays in the clearance process may cost money and pose threats to national security (see table 1).

Table 1: Time Required to Grant Eligibility for a Top Secret Clearance to Industry Personnel—Cases Adjudicated in January and February 2006

		Phases of security clearance process ^a		
Total clearance process	2. Application submission	3. Investigation	4. Adjudication	
Clearance type	Average days ^b	Average days	Average days	Average days
Initial	446	111	286	39
Update	545	81	419	36
All	471	103	320	38
Example tasks and decisions required in each phase.	<ul style="list-style-type: none"> Subject signs and dates the application. Facility security officer checks application materials for completeness and accuracy, and forwards them to DISCO after any applicable changes. DISCO adjudicator reviews materials for completeness and other concerns, and returns deficient materials to the facility security officer for further work. If the application materials are approved, DISCO adjudicators determine whether the applicant is eligible for an interim clearance. DISCO then forwards the completed application to OPM to begin the investigation. OPM reviews the application for completeness and other concerns and returns deficient materials to DISCO for further work. 	<ul style="list-style-type: none"> If application is not submitted via eQIP, OPM key enters information for the application into its investigative database. OPM schedules the investigation, assigning the investigation to its federal investigative workforce or one of its investigations contractors. Investigators gather information on the individual in order to produce an investigative report. OPM's PIPS database obtains a variety of electronic information that is available via government databases. Once the investigative work has been completed, OPM checks the investigative report for completeness before sending the report to an adjudication facility. 	<ul style="list-style-type: none"> OPM prints a paper copy of the investigative report. OPM ships the paper copy of the report to the adjudication facility if the agency chose that format or cannot get it electronically.^c 	<ul style="list-style-type: none"> DISCO adjudicator reviews the information in the investigative report. DISCO adjudicator determines if industry employee is eligible for a clearance.^d

Source: GAO analysis of OPM and DOD information.

Legend: PIPS = OPM's Personnel Investigations Processing System.

^aThe phases referred to here are based on those in figure 1.

^bThe average days for the phases do not sum to the average days for the total clearance process because the number of applicable cases varies for each calculation.

^cAccording to OPM, the requesting agency has the option to request that the investigation be delivered through PIPS, eliminating the mail time, for all completed investigations that do not contain hard-copy third-party information.

^dAdditional time may be needed in this phase if DISCO adjudicators identify major security issues in the investigative report. Such cases may be submitted to DOHA for the clearance eligibility determination.

Delays in Determining Eligibility Are Caused by Many Factors

As table 1 shows, industry personnel granted eligibility for top secret clearances from DISCO from January to February 2006 waited an average of 446 days for their initial clearances or 545 days for their clearance updates. DOD may, however, have issued interim clearances to some of these industry personnel, which might have allowed them to begin work before they received their final clearances. IRTPA requires that beginning in December 2006, 80 percent of clearances be completed in an average of 120 days. Delays were found in each phase of the clearance process that we examined:

- *Application submission.* The application-submission phase of the clearance process took an average of 111 days for the initial clearances that DISCO adjudicated in January and February 2006 (see table 1). The starting point for our measurement of this phase was the date when the application was submitted by the facility security officer. Our end point for this phase was the date that OPM scheduled the investigation into its Personnel Investigations Processing System. We used this starting date because the government can begin to incur an economic cost if an industry employee cannot begin work on a classified contract because of delays in obtaining a security clearance and this end date because OPM currently uses this date as its start point for the next phase in the clearance process. The government plan for improving the clearance process noted that “investigation submission” (i.e., application submission) is to be completed within an average of 14 calendar days or less. Therefore, the 111 days taken for the application-submission phase was nearly 100 more days on average than allocated. Several factors contributed to the amount of time we observed in the application-submission phase, including rejecting applications multiple times because of inaccurate information (as reported in an April 2006 DOD Office of Inspector General report); multiple completeness reviews—the corporate facility security officer, DISCO adjudicators, and OPM staff; and manually entering data from paper applications if eQIP was not used.
- *Investigation.* Investigations for the initial top secret clearances of industry personnel adjudicated in January and February 2006 took an average of 286 days, compared to OMB’s 180-day goal for that period (see table 1). During the same period, investigations for top secret clearance

updates or “reinvestigations” took an average of 419 days, almost one and a half times as long as the initial investigations (no goal is given for clearance updates or reinvestigations). The mandated February 2007 OMB report to Congress noted that “Reinvestigation timeliness has not been addressed, because the improvement effort focused on individuals for whom initial security clearances are required to perform work.” Our September 2006 report identified many factors that inhibited the speed with which OPM can deliver investigative reports to DISCO and other adjudication facilities. Those causes included backlogged cases that prevent the prompt start of work on new cases, the relative inexperience of the investigative workforce, slowness in developing the capability to investigate overseas leads, and difficulty obtaining access to data in governmental records.

- *Adjudication.* DISCO adjudicators took an average of 39 days to grant initial clearance eligibility to the industry personnel in our population (see table 1). The measurement of this phase for our analysis used the same start and stop dates that OPM uses in its reports, starting on the date that OPM closed the report and continuing through the date that DISCO adjudicators decided clearance eligibility. IRTPA requires that at least 80 percent of the adjudications made from December 2006 through December 2009 be completed within an average of 30 days. As of June 2006, DISCO reported that it had adjudicated 82 percent of its initial top secret clearances within 30 days.

Delays in any phase of the clearance process cost money and threaten national security. Delays in completing initial security clearances may have a negative economic impact on the costs of performing classified work within or for the U.S. government. For example, in a May 2006 congressional hearing, a representative of a technology association testified that retaining qualified personnel resulted in salary premiums as high as 25 percent for current clearance holders.¹¹ Delays in completing clearance updates can have serious but different negative consequences than those stemming from delays in completing initial clearance-eligibility determinations. In 1999, the Joint Security Commission reported that delays in initiating reinvestigations for clearance updates create risks to national security because the longer individuals hold clearances the more likely they are to be working with critical information.

¹¹ Doug Wagoner, statement for the record, hearing before the Committee on Government Reform, U.S. House of Representatives (May 17, 2006).

**OMB's and OPM's
Timeliness Reporting Does
Not Convey Full
Magnitude of Delays**

The statistics that OMB and OPM have provided to Congress on the timeliness of the personnel security clearance process do not convey the full magnitude of the investigation-related delays facing the government. While our September 2006 report noted additional problems with the transparency of the timeliness statistics, I will review our concerns about five such issues: (1) limited information on reinvestigations for clearance updating, (2) not counting the total number of days to finish the application-submission phase, (3) shifting some investigation-related days to the adjudication phase or not counting them, (4) not counting the total number of days to complete closed pending cases, and (5) not counting the total number of days to complete investigations sent back for rework.

Limited information on reinvestigations for clearance updating. In its mandated February 2007 report to Congress, OMB acknowledged that “reinvestigation timeliness has not been addressed,” but the findings from our population of industry personnel (obtained using DOD’s, instead of OPM’s, database to assess timeliness) indicated that clearance update reinvestigations took about one and a half times as long as the initial investigations. The absence of timeliness information on clearance update reinvestigations does not provide all stakeholders—Congress, agencies, contractors attempting to fulfill their contracts, and employees awaiting their clearances—with a complete picture of clearance delays. We have noted in the past that focusing on completing initial clearance investigations could negatively affect the completion of clearance update reinvestigations and thereby increase the risk of unauthorized disclosure of classified information.

Not counting all days to finish the application-submission phase. OMB’s February 2007 report noted that its statistics do not include “the time to hand-off applications to the investigative agency.” The gray section of the application-submission phase in table 1 shows some of the activities that were not counted when we examined January and February 2006 clearance documentation for industry personnel. These activities could be included in timeliness measurements depending on the interpretation of what constitutes “receipt of the application for a security clearance by an authorized investigative agency”—IRTPA’s start date for the investigation phase.

Shifting some investigation-related days to the adjudication phase or not counting them. In our September 2006 report, we raised concerns about how the time to complete the adjudication phase was measured. The activities in the gray section of the adjudication phase in table 1 show that the government’s procedures for measuring the time required for the

adjudication phase include tasks that occur before adjudicators actually receive the investigative reports from OPM. More recently, OMB's February 2007 report to Congress noted that its timeliness statistics do not include "the time to ... hand-off investigation files to the adjudicative agency" and estimated this handling and mailing time at up to 15 days.

Not counting all days for closed pending cases. OPM's May 2006 testimony before Congress did not indicate whether the timeliness statistics on complete investigations included a type of incomplete investigation that OPM sometimes treats as being complete. In our February 2004 report, we noted that OPM's issuance of "closed pending" investigations—investigative reports sent to adjudication facilities without one or more types of source data required by the federal investigative standards—causes ambiguity in defining and accurately estimating the backlog of overdue investigations. In our February 2004 report, we also noted that cases that are closed pending the provision of additional information should continue to be tracked separately in the investigation phase of the clearance process. According to OPM, from February 20, 2005, through July 1, 2006, the number of initial top secret clearance investigative reports that were closed pending the provision of additional information increased from 14,841 to 18,849, a 27 percent increase. DISCO officials and representatives from some other DOD adjudication facilities have indicated that they will not adjudicate closed pending cases since critical information is missing. OPM, however, has stated that other federal agencies review the investigative reports from closed pending cases and may determine that they have enough information for adjudication. Combining partially completed investigations with fully completed investigations overstates how quickly OPM is supplying adjudication facilities with the information they require to make their clearance-eligibility determinations.

Not counting all days when inadequate investigations are returned. OMB's February 2007 report stated that its statistics do not include the time incurred to "return the files to the investigative agency for further information." OPM's procedure is to restart the measurement of investigation time for the 1 to 2 percent of investigative reports that are sent back for quality control reasons, which does not hold OPM fully accountable for total investigative time when deficient products are delivered to its customers. In fact, restarting the time measurement for reworked investigations could positively affect OPM's statistics if the reworked sections of the investigation take less time than did the earlier effort to complete the large portion of the investigative report.

IRTPA establishes timeliness requirements for the security clearance process. Specifically, it states that “each authorized adjudicative agency shall make a determination on at least 80 percent of all applications for a personnel security clearance pursuant to this section within an average of 120 days after the date of receipt of the application for a security clearance by an authorized investigative agency.” IRTPA did not identify situations that could be excluded from mandated timeliness assessments. Without fully accounting for the total time needed to complete the clearance process, Congress will not be able to accurately determine whether agencies have met IRTPA-mandated requirements or determine if legislative actions are necessary.

OPM Delivered Incomplete Investigative Reports, and DISCO-Adjudicated Cases Did Not Document All Clearance-Determination Considerations

Almost All of the Sampled Investigative Reports Were Incomplete

OPM provided incomplete investigative reports to DOD adjudicators, which they used to determine top secret clearance eligibility. Almost all (47 of 50) of the sampled investigative reports we reviewed were incomplete based on requirements in the federal investigative standards. In addition, DISCO adjudicators granted clearance eligibility without requesting additional information for any of the incomplete investigative reports and did not document that they considered some adjudicative guidelines when adverse information was present in some reports. Granting clearances based on incomplete investigative reports increases risks to national security. In addition, use of incomplete investigative reports and not fully documenting adjudicative considerations may undermine the government’s efforts to increase the acceptance of security clearances granted by other federal agencies.

In our review of 50 initial investigations randomly sampled from the population used in our timeliness analyses, we found that 47 of 50 of the investigative reports were missing documentation required by the federal investigative standards. The missing data were of two general types: (1) the absence of documentation showing that an investigator gathered the prescribed information in each of the applicable 13 investigative areas and included requisite forms in the investigative report and (2) the absence of information to help resolve issues (such as conflicting information on indebtedness) that were raised in other parts of the investigative report. The requirements for gathering these types of information were identified in federal investigative standards published about a decade ago.

At least half of the 50 reports did not contain the required documentation in 3 investigative areas: residence (33 of 50), employment (32), and education (27). In addition, many investigative reports contained multiple

deficiencies within each of these areas. For example, multiple deficiencies might be present in the residence area because investigators did not document a rental record check and an interview with a neighborhood reference. Moreover, 44 of the 50 investigative reports had 2 to 6 investigative areas out of a total of 13 areas with at least one piece of missing documentation.

We also found a total of 36 unresolved issues in 27 of the investigative reports. The three investigative areas with the most unresolved issues were financial consideration (11 of 50 cases), foreign influence (11), and personal conduct (7). Federal standards indicate that investigations may be expanded as necessary to resolve issues. According to OPM, (1) issue resolution is a standard part of all initial investigations and periodic reinvestigations for top secret clearances and (2) all issues developed during the course of an investigation should be fully resolved in the final investigative report provided to DOD.

One investigative report we examined serves as an example of the types of documentation issues we found during our review. During the course of this particular investigation, the subject reported having extramarital affairs; however, there was no documentation to show that these affairs had been investigated further. Also, the subject's clearance application indicated cohabitation with an individual with whom the subject had previously had a romantic relationship, but there was no documentation that record checks were performed on the cohabitant. Moreover, information in the investigative report indicated that the subject had defaulted on a loan with a balance of several thousand dollars; however, no other documentation suggested that this issue was explored further. When we reviewed this and other deficient investigative reports with OPM Quality Management officials, they agreed that the investigators should have included documentation to resolve the issues.

While we found that the interview narratives in some of the 50 OPM investigative reports were limited in content, we did not identify them as being deficient for the purposes of our analysis because such an evaluation would have required a subjective assessment that we were not willing to make. For example, in our assessment of the presence or absence of documentation, we found a 35-word narrative for a subject interview of a naturalized citizen from an Asian country. It stated only that the subject did not have any foreign contacts in his birth country and that he spent his time with family and participated in sports. Nevertheless, others with more adjudicative expertise voiced concern about the issue of documentation adequacy. Top officials representing DOD's adjudication

facilities with whom we consulted were in agreement that OPM-provided investigative summaries had been inadequate.

When we reviewed our findings in meetings with the Associate Director of OPM's investigations unit and her quality management officials they cited the inexperience of the rapidly expanded investigative workforce and variations in training provided to federal and contractor investigative staff as possible causes for the incomplete investigative reports we reviewed. Later, in official agency comments to our September 2006 report, OPM's Director indicated that some of the problems that we reported were the result of transferred staff and cases when OPM accepted DOD investigative functions and personnel. However, OPM had had 2 years to prepare for the transfer between the announced transfer agreement in February 2003 and its occurrence in February 2005. Furthermore, the staff and cases were under OPM control until the investigative reports were subsequently transferred to OPM for adjudication in January or February of 2006. In addition, 47 of the 50 investigative reports that we reviewed were missing documentation even though OPM had quality control procedures for reviewing the reports before they were sent to DOD.

In our November 2005 testimony evaluating the government plan for improving the personnel security clearance process, we stated that developers of the plan may wish to consider adding other indicators of the quality of investigations. During our review, we asked the Associate Director of OPM's Investigations Unit if OMB and OPM had made changes to the government plan to address quality measurement and other shortcomings we identified. OPM's Associate Director said that the plan had not been modified to address our concerns but that implementation of the plan was continuing.

DISCO Adjudicators Granted Top Secret Clearance Eligibility for Cases with Missing Information

Our review found that DISCO adjudicators granted top secret clearance eligibility for all 47 of the 50 industry personnel whose investigative reports did not have full documentation. In making clearance-eligibility determinations, the federal guidelines require adjudicators to consider (1) guidelines covering 13 specific areas, such as foreign influence and financial considerations; (2) adverse conditions or conduct that could raise security concerns and factors that might mitigate (alleviate) the condition for each guideline; and (3) general factors related to the whole person. According to a DISCO official, DISCO and other DOD adjudicators are to record information relevant to each of their eligibility determinations in JPAS. They do this by selecting applicable guidelines

and mitigating factors from prelisted responses and may type up to 3,000 characters of additional information.

The adjudicators granted eligibility for the 27 industry personnel whose investigative reports (discussed in the prior section) contained unresolved issues without requesting additional information or documenting in the adjudicative report that the information was missing. The following is an example of an unresolved foreign influence issue, which was not documented in the adjudicative report, although DISCO officials agreed that additional information should have been obtained to resolve the issue before the individual was granted a top secret clearance. A state-level record check on an industry employee indicated that the subject was part owner of a foreign-owned corporation. Although the DISCO adjudicator applied the foreign influence guideline for the subject's foreign travel and mitigated that foreign influence issue, there was no documentation in the adjudicative report to acknowledge or mitigate the foreign-owned business. When we asked why adjudicators did not provide the required documentation in JPAS, the DISCO officials as well as adjudication trainers said that adjudicators review the investigative reports for sufficient documentation to resolve issues and make judgment calls about the amount of risk associated with each case by weighing a variety of past and present, favorable and unfavorable information about the person to reach an eligibility determination.

Seventeen of the 50 adjudicative reports were missing documentation on a total of 22 guidelines for which issues were present in the investigative reports. The missing guideline documentation was for foreign influence (11), financial considerations (5), alcohol consumption (2), personal conduct issues (2), drug involvement (1), and foreign influence (1). DISCO officials stated that procedural changes associated with JPAS implementation contributed to the missing documentation. DISCO began using JPAS in February 2003, and it became the official system for all of DOD in February 2005. Before February 2005, DISCO adjudicators were not required to document the consideration of a guideline issue unless the adverse information could disqualify an individual from being granted a clearance eligibility. After JPAS implementation, DISCO adjudicators were trained to document in JPAS their rationale for the clearance determination and any adverse information from the investigative report, regardless of whether an adjudicative guideline issue could disqualify an individual from obtaining a clearance. The administrators also attributed the missing guideline documentation to a few adjudicators attempting to produce more adjudication determinations.

Delivery and Use of Incomplete Investigations Increase Risks to National Security and Reciprocity

Decisions to grant clearances based on incomplete investigations increase risks to national security because individuals can gain access to classified information without being vetted against the full federal standards and guidelines. Furthermore, if adjudication facilities send the incomplete investigations back to OPM for more work, the adjudication facilities must use adjudicator time to review cases more than once and then use additional time to document problems with the incomplete investigative reports.

Incomplete investigations and adjudications undermine the government's efforts to move toward greater clearance and access reciprocity. An interagency working group, the Security Clearance Oversight Steering Committee, noted that agencies are reluctant to be accountable for poor quality investigations, adjudications conducted by other agencies or organizations, or both. To achieve fuller reciprocity, clearance-granting agencies need to have confidence in the quality of the clearance process. Without full documentation of investigative actions, information obtained, and adjudicative decisions, agencies could continue to require duplicative investigations and adjudications.

Concluding Observations

Incomplete timeliness data limit the visibility of stakeholders and decision makers in their efforts to address long-standing delays in the personnel security clearance process. For example, not accounting for all of the time used when personnel submit an application multiple times before it is accepted limits the government's ability to (1) accurately monitor the time required for each step in the application-submission phase and (2) identify positive steps that facility security officers, DISCO adjudicators, OPM investigative staff, and other stakeholders can take to speed the process. The timeliness-related concerns identified in my testimony show the fragmented approach that the government has taken to addressing clearance problems. When I testified before this Subcommittee in November 2005, we were optimistic that the government plan for improving the clearance process prepared under the direction of OMB's Deputy Director for Management would be a living document that would provide the strategic vision for correcting long-standing problems in the personnel security clearance process. However, nearly 2 years after first commenting on the plan, we have not been provided with a revised plan that lays out how the government intends to address the shortcomings that we identified in the plan during our November 2005 testimony. Continued failure to address the shortcomings we have cited could significantly limit the positive impact that the government has made in other portions of the

clearance process through improvements such as hiring more investigators and promoting reciprocity.

While eliminating delays in the clearance process is an important goal, the government cannot afford to achieve that goal by providing investigative and adjudicative reports that are incomplete in the key areas required by federal investigative standards and adjudicative guidelines. Also, the incomplete investigative and adjudicative reports could suggest to some security managers that there is at least some evidence to support agencies' concerns about the risks that may come from accepting the clearances issued by other federal agencies, and thereby negatively affect OMB's efforts toward achieving greater reciprocity. Further, as we pointed out in November 2005, the almost total absence of quality metrics in the governmentwide plan for improving the clearance process hinders Congress's oversight of these important issues. Finally, the missing documentation could have longer-term negative effects, such as requiring future investigators and adjudicators to devote time to obtaining the documentation missing from current reviews when it is time to update the clearances currently being issued.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I would be happy to answer any questions you may have at this time.

Contact and Acknowledgments

For further information regarding this testimony please contact me at (202)512-5559 or stewartd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony are Jack E. Edwards, Assistant Director; Kurt A. Burgeson; Nicolaas C. Cornelisse; Alissa H. Czyz; Ronald La Due Lake; Beverly C. Schladt; and Karen D. Thornton.

Related GAO Products

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